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STEVE SHIFFRIN, AN AMAZING TEACHER AND SCHOLAR: OBSERVATIONS OF A FORMER STUDENT AND CLASSMATE

*Mark A. Hart**

I have known Steve Shiffrin from the perspective of a student, classmate, and fellow member of the bar. I met Steve in 1968, when I was a freshman in college. I was a member of my college debate team at California State University, Northridge, which was known as “San Fernando Valley State College” at the time.¹ Steve was the debate coach.

The national college debate topic for the 1968–1969 academic year was “Resolved: ‘That executive control of United States foreign policy should be significantly curtailed.’”² We spent the year debating about whether to curtail the president’s authority to conduct American foreign policy. That was approximately four decades ago. What is it people say about those “who tend to forget the past”? In case you are thinking that this may be an appropriate current topic to discuss, remember 1968 was a very, very different and turbulent time. In 1968 the United States was involved in an unpopular war. Having said that, it was the perfect topic, the perfect year, and the perfect time to be coached and taught by a professor who believes in the value of dissent.

One idea I have always carried with me from those years is that dissent is a core American value. That is something I learned from Steve, along with the phrase “marketplace of ideas,” which he has repeated over and over and which I have since repeated over and over.

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1. See California State University, Northridge Campus Profile, http://www.csun.edu/facultyaffairs/campus_profile (last visited Oct. 6, 2007).

2. National Debate Tournament Topics 1946–2006, <http://groups.wfu.edu/NDT/HistoricalLists/topics.html> (last visited Oct. 6, 2007).

The transition from debate coach to lawyer to law professor is the part of Steve's career that I am most familiar with. There are many distinguished former college debaters who have gone on to excel in the legal profession. After all, debate teaches many skills that lawyers must know. These skills include how to gather evidence, utilize that evidence to make persuasive arguments, and argue both sides of an issue. But, more importantly, a debate coach must be able to actually *teach other people* how to develop and use these skills.

Steve Shiffrin excels in those skills. So it was no great surprise to me that after becoming an attorney, Steve would one day make the transition from distinguished college debate coach to distinguished law professor. It is a very, very exclusive club. One other member I can think of is Laurence Tribe of Harvard. By the way, Professor Tribe coached the Harvard debate team in the years when Steve coached debate.³

What you may not know about Steve is that before he was a lawyer he was, in all but name, a law professor, and he focused on First Amendment law. Steve taught an undergraduate class on the subject of freedom of speech. I was in that class. Steve taught the subject like a law school class. We were assigned two books, both containing leading United States Supreme Court cases on First Amendment law and both of which Steve used like casebooks. One of the books was *Protest, Dissent and the Supreme Court*.⁴ The other was *The Principles and Practice of Freedom of Speech*.⁵

Steve employed his own version of the Socratic method, which incorporated debate technique. I would often take Justice Black's approach and claim that where the First Amendment states that "Congress shall make no law,"⁶ it means *no law*.⁷ Steve would then ask a question calling for a perfectly obvious or simple answer. If I

3. 1969 National Debate Tournament – Harvard v. Houston, <http://groups.wfu.edu/NDT/HistoricalLists/1969DebateFinals/1969NDTFinalsMaster.htm> (last visited Oct. 6, 2007).

4. ROBERT L. CORD, *PROTEST, DISSENT AND THE SUPREME COURT* (1971).

5. *THE PRINCIPLES AND PRACTICE OF FREEDOM OF SPEECH* (Haig A. Bosmajian ed., Univ. Press of Am. Inc. 2d ed. 1983) (1971).

6. U.S. CONST. amend. I.

7. See, e.g., *Barenblatt v. United States*, 360 U.S. 109, 140–41 (1959) (Black, J., dissenting) ("The First Amendment says in no equivocal language that Congress shall pass no law abridging freedom of speech, press, assembly or petition. . . . I do not agree that laws directly abridging First Amendment freedoms can be justified by a congressional or judicial balancing process.").

gave that answer, he would ask another question, and then another, and eventually lead me down a path where I would have to defend an indefensible position or simply abandon my premise.

That class was an important part of my education, because as an appellate attorney, I am frequently faced with these type of confrontations when I argue cases before appellate tribunals. It was excellent training for law school, and I am sure that the class was only the beginning of Professor Shiffrin's later scholarly works on the First Amendment, as well as classes he now teaches at Cornell.

Many of the cases that I read in that class have faded from memory, but many of the concepts have not. These concepts include the value of dissent in a free society, an idea I have carried with me to this day.

When Steve became a law student, I never doubted that he was going to be first in his class and editor-in-chief of the law review, not that it happened automatically. Steve always worked extremely hard, and he expected the rest of us on law review to do the same. In law school he was always reading something, writing something, or practicing an argument. I remember one occasion when a group of us went to a Los Angeles Dodgers game, and Steve came with a stack of papers to read between pitches. That is just the kind of guy he is. When he graduated, he had the record for the highest grade point average in the history of Loyola Law School.

Some years later, when I was a young attorney in the California Attorney General's Office, I had an argument scheduled in the United States Supreme Court in *Fare v. Michael C.*⁸ I turned to my old debate coach for some "pre-argument" coaching. I had lunch with Steve at UCLA, where he was then teaching. We discussed the case and potential questions the members of the court may ask. One thing Steve told me was probably the best piece of advice he could have given. He listened to my ideas about the case and said, "You're going to win." Having a constitutional scholar like Professor Shiffrin make that prediction boosted my ego.

As my coach, my professor, my classmate, and a fellow member of the bar, Professor Shiffrin has influenced my life and my career greatly. I am truly grateful for his contribution to my education and for this opportunity to honor him.

8. 442 U.S. 707 (1979).

